

From: Tuers, Charis
To: [Jackson, Scott](#)
Cc: [Russ, Timothy](#); [Hinkle, Vanessa](#); [Razzazian, Christopher](#)
Subject: Re: FW: Exempt from non-attainment General Conformity Requirements?
Date: Thursday, June 12, 2014 9:12:35 AM
Attachments: [image001.jpg](#)

Referred to BLM

Charis A. Tuers
Air Resource Specialist
Bureau of Land Management
Wyoming State Office
(307) 775-6099
ctuers@blm.gov

On Wed, Jun 11, 2014 at 2:35 PM, Jackson, Scott <Jackson.Scott@epa.gov> wrote:

Hi Charis,

I asked Tim Russ for his thoughts and they are included below. Bottom line, because the activities under this FHWA project are exempt from transportation conformity, they are also exempt from general conformity. BLM's actions to grant permits or right of way access to make these exempted activities possible would also be exempt from general conformity.

I hope this helps clear things up. I'm copying Vanessa and Chris so that our relevant NEPA folks are in the loop.

Thanks,

Scott

Scott Jackson, Unit Chief

Indoor Air, Toxics and Transportation Unit
U.S. EPA Region 8

1595 Wynkoop Street (8P-AR)

Denver, CO 80202-1129

(303) 312-6107

From: Russ, Timothy
Sent: Wednesday, June 11, 2014 2:22 PM
To: Jackson, Scott

Subject: FW: Exempt from non-attainment General Conformity Requirements?

Hi Scott,

In short, EPA concurs that this particular FHWA-funded (in part or whole) project is exempt from a general conformity determination. Please see the following information below.

A.) As per our approval in 2013, Wyoming general conformity requirements are as stated in the State's general conformity rule; WAQSR, Chapter 8, Section 3 which can be viewed at the following Wyoming DEQ website:

<http://soswy.state.wy.us/Rules/RULES/9297.pdf>

Section 3. Conformity of general federal actions to state implementation plans.

(c) Applicability.

(i) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of Chapter 8, Section 4, in lieu of the procedures set forth in this section.

And the above referenced transportation conformity rule is also found in WAQSR, Chapter 8, Section 4:

Section 4. Transportation conformity.

B.) To assist in our evaluation of this question from the BLM, a brief review of EPA's general conformity information and training materials was conducted. Especially helpful is the below applicability analysis decision matrix diagram which is from Module II of EPA's general conformity training materials and can be found at the following weblink:

http://www.epa.gov/air/genconform/training/02_mod_2_Sec_2-1.html

(Click for links to relevant sections)

Figure 3 – Applicability Analysis



Referred to BLM

Answer: Yes. I was unable to confirm if EPA had ever approved the Wyoming Transportation Conformity requirements that appear in WAQSR, Chapter 8, Section 4. That said, I then reviewed the exempt project list in 40 CFR 93.126 and agree this project would be considered exempt from a transportation conformity determination. As the project would be exempt under 40 CFR 93.126, the project then meets the applicable transportation conformity requirements; therefore, based on the decision matrix provided above, a general conformity determination is not required.

In addition, Region 8 gave its concurrence, via an email dated May 5, 2014, to FHWA-WY regarding a list of 40 CFR 93.126 transportation conformity exempt projects for the Upper Green River Basin 8-hour ozone nonattainment area. That list is provided with this email (please see the attached .pdf file); although as coded by WYDOT, I am unable to specifically identify this project, it may very well already be included on this list.

Please let me know if there are any questions.

Thanks!

Tim

Tim Russ
Environmental Scientist
USEPA Region 8
Air Program
1595 Wynkoop Street (8P-AR)
Denver, CO 80202-1129
Ph. (303) 312-6479
Fax (303) 312-6064
e-mail: russ.tim@epa.gov

From: Tuers, Charis [<mailto:ctuers@blm.gov>]
Sent: Wednesday, June 11, 2014 11:54 AM
To: Jackson, Scott
Subject: Fwd: Exempt from non-attainment?

Referred to BLM

Charis A. Tuers

Air Resource Specialist

Bureau of Land Management

Wyoming State Office

(307) 775-6099

ctuers@blm.gov

----- Forwarded message -----

From: **Noble, Greg** <gnoble@blm.gov>

Date: Mon, Jun 9, 2014 at 3:50 PM

Subject: Exempt from non-attainment?

To: Charis Tuers <ctuers@blm.gov>

Charis,

Referred to BLM



--

Greg J. Noble

Assistant Field Manager, Minerals and Lands

Pinedale Field Office

(307) 367-5382